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10  
11 IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

12 FAYE IRENE GUENTHER,  
13 an individual,

14 Plaintiffs,

15 v.

16 JOSEPH H. EMMONS, individually,  
AND OSPREY FIELD CONSULTING  
17 LLC, a limited liability company,

18 Defendants.

No. 2:22-cv-00272-TOR

**REPLY IN SUPPORT OF  
DEFENDANTS' MOTION  
REGARDING SEALING  
PURSUANT TO FEBRUARY  
14, 2024, ORDER (ECF NO. 38)**

**06/03/2024  
Without Oral Argument**

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REPLY IN SUPPORT OF DEFS'  
MOTION REGARDING SEALING  
Case No. 2:22-cv-00272-TOR

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1 Defendants Joseph H. Emmons and Osprey Field Consulting LLC  
2 respectfully submit this Reply in support of their Motion Regarding Sealing (ECF  
3 No. 49) and request the Court unseal the documents filed at ECF Nos. 51, 51-1, 51-  
4 2, 51-3, 51-4, 51-5, 51-6.

5 On May 3, 2024, Defendants filed under seal several documents they rely on  
6 to support their Response to Plaintiff's Motion to Dismiss Under 41(a)(2) (ECF No.  
7 47). *See* ECF Nos. 51, 51-1, 51-2, 51-3, 51-4, 51-5, 51-6 (sealed documents); ECF  
8 No. 49 at 3 (describing sealed documents). Defendants filed these documents under  
9 seal pursuant to Paragraph 6 of the Court's February 14, 2024, Order Granting  
10 Defendants' Motion to Compel (ECF No. 38) ("Order") because the documents may  
11 be subject to the non-disclosure agreements at issue in that Order ("NDAs"), and at  
12 the time of filing, not all parties to the NDAs had consented to Defendants filing the  
13 documents publicly. *See* ECF No. 49 at 4; ECF No. 50 ¶ 6. The same day,  
14 Defendants filed a Motion Regarding Sealing, asserting Defendants do not believe  
15 that the sealed documents should remain under seal and asking the Court to unseal  
16 them absent a showing by the parties to the NDAs of "compelling reasons" to keep  
17 them under seal. *See* ECF No. 47 at 1, 4-6. Defendants served a copy of the Motion  
18 Regarding Sealing and supporting documents on all parties to the NDAs via email  
19 and mail. Declaration of Sara A. Fairchild in Support of Reply to Motion Regarding  
20 Sealing ¶ 2. No one filed a response.

21 To maintain the documents under seal, any party to the NDAs who wished to  
22 keep the documents under seal needed to provide "compelling reasons" for doing so.  
23 *See* ECF No. 49 at 4-5; *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,

1 1099, 1101 (9th Cir. 2016). None of the parties to the NDAs has raised *any* reason  
2 to maintain the documents under seal, much less a compelling one. The information  
3 in those documents is central to Defendants' defense that the flyer is true, *see* ECF  
4 No. 38 at 7, and supports Defendants' Response to Plaintiff's Motion to Dismiss  
5 Under 41(a)(2), *see* ECF No. 49 at 5. The "strong presumption" in favor of public  
6 access to court records requires the Court to unseal the documents. *See Kamakana*  
7 *v. City & County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006).

8 For these reasons, Defendants respectfully request the Court unseal ECF Nos.  
9 51, 51-1, 51-2, 51-3, 51-4, 51-5, 51-6, or allow Defendants to file these documents  
10 in the public record.

11 DATED this 29th day of May, 2024.

12 Attorneys for Defendants

13 By: s/ Sara A. Fairchild

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 29, 2024, I caused the document to which this certificate is attached to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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I further certify that on the same date, I caused the same document to be served by email and mail to the following:

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I declare under penalty of perjury that the foregoing is true and accurate.

DATED this 29th day of May, 2024.

By: s/Sara A. Fairchild

Sara A. Fairchild, WSBA #54419